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8	BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS		
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10	STATE OF CALI	IFUKNIA	
11	In the Matter of the Accusation Against:	Case No.	2010-61
12	NIMFA C. MOLINA	. CONC	I A TI O N
13	12834 Eastbrook Ave. Downey, CA 90242	ACCUS	SATION
14	Registered Nurse License No. 451501		
15	Respondent.		
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17	Complainant alleges:		
18	<u>PARTIES</u>		
19	1. Louise R. Bailey, M.Ed., RN (	"Complainan	t") brings this Accusation
20	solely in her official capacity as the Interim Executive Officer of the Board of Registered		
_21	Nursing ("Board"), Department of Consumer Affairs.		
22	2. On or about March 31, 1990, the	ne Board issu	ed Registered Nurse License
23	Number 451501 to Nimfa C. Molina ("Respondent"). Respondent's registered nurse license was		
24	in full force and effect at all times relevant to the charges brought herein and will expire on		
25	January 31, 2010, unless renewed.		
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1	STATUTORY PROVISIONS
2	3. Business and Professions Code ("Code") section 2750 provides, in
3	pertinent part, that the Board may discipline any licensee, including a licensee holding a
4	temporary or an inactive license, for any reason provided in Article 3 (commencing with section
5	2750) of the Nursing Practice Act.
6	4. Code section 2764 provides, in pertinent part, that the expiration of a
7	license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
8	against the licensee or to render a decision imposing discipline on the license. Under Code
9	section 2811, subdivision (b), the Board may renew an expired license at any time within eight
0	years after the expiration.
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5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.

(j) Holding oneself out to the public or to any practitioner of the healing arts as a "nurse practitioner" or as meeting the standards established by the board for a nurse practitioner unless meeting the standards established by the board pursuant to Article 8 (commencing with Section 2834)...

#### 6. Code section 2835 states:

The Legislature finds that various and conflicting definitions of the nurse practitioner are being created by state agencies and private organizations within California. The Legislature also finds that the public is harmed by conflicting usage of the title of nurse practitioner and lack of correspondence between use of the title and qualifications of the registered nurse using the title. Therefore, the Legislature finds the public interest served by determination of the legitimate use of the title "nurse practitioner" by registered nurses.

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## states:

#### 7. Code section 2835 states:

No person shall advertise or hold himself out as a "nurse practitioner" who is not a nurse licensed under this chapter and does not, in addition, meet the standards for a nurse practitioner established by the board.

8. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022. . .
  - 9. Bus. & Prof. Code section 4022 states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

- (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.
- (b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a ------," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.
- (c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.
  - 10. California Code of Regulations, title 16, section ("Regulation") 1443

As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.

#### COST RECOVERY

11. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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#### FIRST CAUSE FOR DISCIPLINE

#### (Incompetence)

- 12. Between approximately December 14, 2005, and March 22, 2006, Respondent was employed as a registered nurse in the Department of Pediatrics ("DOP") at King/Drew Medical Center ("KDMC") in Los Angeles, California.
- 13. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a)(1), on the grounds of unprofessional conduct in that between approximately December 14, 2005, and March 22, 2006, while on duty as a registered nurse, Respondent engaged in acts of incompetence, within the meaning of Regulation 1443, as follows:

  a. Respondent acted in a capacity for which licensure as a nurse practitioner is required in the care of patients at least eight (8) patients. Respondent's conduct included, but was not limited to, taking the patient's complete medical histories, performing physical exams, and diagnosing and treating the patients.
- b. In the medical records of patients identified by the following case numbers: 2743539, 002631002, 2536510, 2658457, 2436235, 2467345, 2367416 & 2597165, Respondent signed medical documents and followed her signature with the title "NP", indicating that she was licensed as a nurse practitioner when, in fact, she was not licensed as a nurse practitioner.
- c. Respondent ordered and/or prescribed dangerous drugs to patients identified by the following case numbers: 2743539, 002631002, 2536510, 2658457, 2436235, 2467345, 2367416 & 2597165, when she was not licensed and/or registered to do so.

#### SECOND CAUSE FOR DISCIPLINE

#### (Unprofessional Conduct)

14. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), in that between approximately December 14, 2005, and March 22, 2006, while on duty as a registered nurse in the DOP at KDMC, Respondent committed acts constituting unprofessional conduct, as set forth above in paragraph 13.

#### THIRD CAUSE FOR DISCIPLINE

#### (Holding Oneself Out to Others as a Nurse Practitioner)

15. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (j), and Code section 2761(d), as defined in Code section 2835, in that between approximately December 14, 2005, and March 22, 2006, while on duty as a registered nurse in the DOP at KDMC, Respondent held herself out to the public and to practitioners of the healing arts as a "nurse practitioner," including, but not limited to using the title "NP" after her signature when, in fact, she was not licensed as a nurse practitioner.

#### FOURTH CAUSE FOR DISCIPLINE

### (Prescribing Dangerous Drugs to Others)

16. Respondent's registered nurse license is subject to disciplinary action pursuant to Code Section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (a), in that between December 14, 2005, and March 22, 2006, she prescribed dangerous drugs to patients identified by the following case numbers: 2743539, 002631002, 2536510, 2658457, 2436235, 2467345, 2367416 & 2597165, without lawful authority therefore, as further set forth above in subparagraph 13(c).

#### **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- Revoking or suspending Registered Nurse License Number 451501,
   issued to Nimfa C. Molina;
- Ordering Nimfa C. Molina to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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1	<ol> <li>Taking such other and further action as deemed necessary and proper.</li> </ol>		
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3	DATED: 8/5/09		
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5	Jourse H. Bailey		
6	Interim Executive Director		
7	LOUISE R. BAILEY, M.Ed., DN, Interim Executive Director Board of Registered Nursing State of California		
8	Complainant		
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